

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 41, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 5, line 21, strike "Muscatatuck State Developmental Center,".
- 2 Page 15, between lines 3 and 4, begin a new paragraph and insert:
- 3 "SECTION 12. IC 12-7-2-14.7 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14.7. "Ancillary
- 5 services", for purposes of ~~IC 12-10-17~~; **IC 12-10-17.1**, has the meaning
- 6 set forth in ~~IC 12-10-17-2~~; **IC 12-10-17.1-2**.
- 7 SECTION 13. IC 12-7-2-18.3 IS AMENDED TO READ AS
- 8 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18.3. "Attendant
- 9 care services", for purposes of ~~IC 12-10-17~~; **IC 12-10-17.1**, has the
- 10 meaning set forth in ~~IC 12-10-17-3~~; **IC 12-10-17.1-3**.
- 11 SECTION 14. IC 12-7-2-20.7 IS AMENDED TO READ AS
- 12 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20.7. "Basic
- 13 services", for purposes of ~~IC 12-10-17~~; **IC 12-10-17.1**, has the meaning
- 14 set forth in ~~IC 12-10-17-4~~; **IC 12-10-17.1-4**."
- 15 Page 18, between lines 2 and 3, begin a new paragraph and insert:
- 16 "SECTION 20. IC 12-7-2-103.5 IS AMENDED TO READ AS
- 17 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 103.5. "Health
- 18 related services":
- 19 (1) for purposes of IC 12-10-15, has the meaning set forth in
- 20 IC 12-10-15-2; and
- 21 (2) for purposes of ~~IC 12-10-17~~; **IC 12-10-17.1**, has the meaning

1 set forth in ~~IC 12-10-17-5~~. **IC 12-10-17.1-5.**

2 SECTION 21. IC 12-7-2-117.1 IS AMENDED TO READ AS
 3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 117.1. "Individual
 4 in need of self-directed in-home care", for purposes of ~~IC 12-10-17~~,
 5 **IC 12-10-17.1**, has the meaning set forth in ~~IC 12-10-17-6~~.
 6 **IC 12-10-17.1-6.**

7 SECTION 22. IC 12-7-2-122.9 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 122.9. "Licensed
 9 health professional", for purposes of ~~IC 12-10-17~~, **IC 12-10-17.1**, has
 10 the meaning set forth in ~~IC 12-10-17-7~~. **IC 12-10-17.1-7.**

11 SECTION 23. IC 12-7-2-137.3 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 137.3. "Personal
 13 services attendant", for purposes of ~~IC 12-10-17~~, **IC 12-10-17.1**, has the
 14 meaning set forth in ~~IC 12-10-17-8~~. **IC 12-10-17.1-8.**

15 SECTION 24. IC 12-7-2-138 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 138. "Physician"
 17 means the following:

18 (1) For purposes of ~~IC 12-10-17~~ **IC 12-10-17.1** and IC 12-15-35,
 19 an individual who is licensed to practice medicine in Indiana
 20 under IC 25-22.5.

21 (2) For purposes of IC 12-26, either of the following:

22 (A) An individual who holds a license to practice medicine
 23 under IC 25-22.5.

24 (B) A medical officer of the United States government who is
 25 in Indiana performing the officer's official duties.

26 SECTION 25. IC 12-7-2-174.5 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 174.5.
 28 "Self-directed in-home health care", for purposes of ~~IC 12-10-17~~,
 29 **IC 12-10-17.1**, has the meaning set forth in ~~IC 12-10-17-9~~.
 30 **IC 12-10-17.1-9.**

31 SECTION 26. IC 12-7-2-184 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 184. (a) "State
 33 institution" means an institution:

34 (1) owned or operated by the state;

35 (2) for the observation, care, treatment, or detention of an
 36 individual; and

37 (3) under the administrative control of a division.

38 (b) The term includes the following:

- 1 ~~(1) Central State Hospital.~~
- 2 ~~(2) (1) Evansville State Hospital.~~
- 3 ~~(3) (2) Evansville State Psychiatric Treatment Center for Children.~~
- 4 ~~(4) (3) Fort Wayne State Developmental Center.~~
- 5 ~~(5) (4) Larue D. Carter Memorial Hospital.~~
- 6 ~~(6) (5) Logansport State Hospital.~~
- 7 ~~(7) (6) Madison State Hospital.~~
- 8 ~~(8) Muscatatuck State Developmental Center.~~
- 9 ~~(9) (7) Richmond State Hospital."~~
- 10 Page 19, line 40, strike "disability".
- 11 Page 19, line 40, reset in roman "aging,".
- 12 Page 19, line 40, strike "and rehabilitative services,".
- 13 Page 20, line 41, after "services," insert "**the division of aging,**".
- 14 Page 25, between lines 29 and 30, begin a new paragraph and insert:
- 15 "SECTION 40. IC 12-10-3-29.5 IS ADDED TO THE INDIANA
- 16 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 17 [EFFECTIVE JULY 1, 2006]: **Sec. 29.5. (a) Except as provided in**
- 18 **subsection (b), an adult protective services unit or a staff member**
- 19 **of the adult protective services unit on the basis of the staff**
- 20 **member's employment may not be designated as:**
- 21 **(1) a personal representative;**
- 22 **(2) a health care representative;**
- 23 **(3) a guardian;**
- 24 **(4) a guardian ad litem; or**
- 25 **(5) any other type of representative;**
- 26 **for an endangered adult.**
- 27 **(b) The:**
- 28 **(1) county prosecutor in the county in which the adult**
- 29 **protective services unit is located; or**
- 30 **(2) head of the governmental entity if the adult protective**
- 31 **services unit is operated by a governmental entity;**
- 32 **may give written permission for an adult protective services unit or**
- 33 **a staff member of the adult protective services unit to be designated**
- 34 **as a representative described in subsection (a)(1) through (a)(5)."**
- 35 Page 30, between lines 2 and 3, begin a new paragraph and insert:
- 36 "SECTION 43. IC 12-10-10-2 IS AMENDED TO READ AS
- 37 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this
- 38 chapter, "community and home care services" means services provided

within the limits of available funding to an eligible individual. The term includes the following:

- (1) Homemaker services and attendant care, including personal care services.
- (2) Respite care services and other support services for primary or family caregivers.
- (3) Adult day care services.
- (4) Home health services and supplies.
- (5) Home delivered meals.
- (6) Transportation.
- (7) Attendant care services provided by a registered personal services attendant under ~~IC 12-10-17~~ **IC 12-10-17.1** to persons described in ~~IC 12-10-17-6~~ **IC 12-10-17.1-6**.
- (8) Other services necessary to prevent institutionalization of eligible individuals when feasible.

SECTION 44. IC 12-10-17.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 17.1. Individuals in Need of Self-Directed In-Home Care

Sec. 1. This chapter does not apply to the following:

- (1) An individual who provides attendant care services and who is employed by and under the direct control of a home health agency (as defined in IC 12-15-34-1).
- (2) An individual who provides attendant care services and who is employed by and under the direct control of a licensed hospice program under IC 16-25.
- (3) An individual who provides attendant care services and who is employed by and under the control of an employer that is not the individual who is receiving the services.
- (4) A practitioner (as defined in IC 25-1-9-2) who is practicing under the scope of the practitioner's license (as defined in IC 25-1-9-3).

Sec. 2. As used in this chapter, "ancillary services" means services ancillary to the basic services provided to an individual in need of self-directed in-home care who needs at least one (1) of the basic services (as defined in section 4 of this chapter). The term includes the following:

1 (1) Homemaker services, including shopping, laundry,
2 cleaning, and seasonal chores.

3 (2) Companion services, including transportation, letter
4 writing, mail reading, and escort services.

5 (3) Assistance with cognitive tasks, including managing
6 finances, planning activities, and making decisions.

7 **Sec. 3.** As used in this chapter, "attendant care services" means
8 those basic and ancillary services that the individual chooses to
9 direct and supervise a personal services attendant to perform and
10 that enable an individual in need of self-directed in-home care to
11 live in the individual's home and community rather than in an
12 institution and to carry out functions of daily living, self-care, and
13 mobility.

14 **Sec. 4.** As used in this chapter, "basic services" means a function
15 that could be performed by the individual in need of self-directed
16 in-home care if the individual were not physically disabled. The
17 term includes the following:

18 (1) Assistance in getting in and out of beds, wheelchairs, and
19 motor vehicles.

20 (2) Assistance with routine bodily functions, including:

21 (A) health related services (as defined in section 5 of this
22 chapter);

23 (B) bathing and personal hygiene;

24 (C) dressing and grooming; and

25 (D) feeding, including preparation and cleanup.

26 **Sec. 5.** As used in this chapter, "health related services" means
27 those medical activities that, in the written opinion of the attending
28 physician submitted to the case manager of the individual in need
29 of self-directed in-home care, could be performed by the individual
30 if the individual were physically capable, and if the medical
31 activities can be safely performed in the home, and:

32 (1) are performed by a person who has been trained or
33 instructed on the performance of the medical activities by an
34 individual in need of self-directed in-home care who is, in the
35 written opinion of the attending physician submitted to the
36 case manager of the individual in need of self-directed
37 in-home care, capable of training or instructing the person
38 who will perform the medical activities; or

(2) are performed by a person who has received training or instruction from a licensed health professional, within the professional's scope of practice, in how to properly perform the medical activity for the individual in need of self-directed in-home care.

Sec. 6. As used in this chapter, "individual in need of self-directed in-home care" means a disabled individual, or person responsible for making health related decisions for the disabled individual, who:

(1) is approved to receive Medicaid waiver services under 42 U.S.C. 1396n(c), or is a participant in the community and home options to institutional care for the elderly and disabled program under IC 12-10-10;

(2) is in need of attendant care services because of impairment;

(3) requires assistance to complete functions of daily living, self-care, and mobility, including those functions included in attendant care services;

(4) chooses to self-direct a paid personal services attendant to perform attendant care services; and

(5) assumes the responsibility to initiate self-directed in-home care and exercise judgment regarding the manner in which those services are delivered, including the decision to employ, train, and dismiss a personal services attendant.

Sec. 7. As used in this chapter, "licensed health professional" means any of the following:

(1) A registered nurse.

(2) A licensed practical nurse.

(3) A physician with an unlimited license to practice medicine or osteopathic medicine.

(4) A licensed dentist.

(5) A licensed chiropractor.

(6) A licensed optometrist.

(7) A licensed pharmacist.

(8) A licensed physical therapist.

(9) A certified occupational therapist.

(10) A certified psychologist.

(11) A licensed podiatrist.

1 (12) A licensed speech-language pathologist or audiologist.

2 **Sec. 8.** As used in this chapter, "personal services attendant"
3 means an individual who is registered to provide attendant care
4 services under this chapter and who has entered a contract with an
5 individual and acts under the individual's direction to provide
6 attendant care services that could be performed by the individual
7 if the individual were physically capable.

8 **Sec. 9.** As used in this chapter, "self-directed in-home health
9 care" means the process by which an individual, who is prevented
10 by a disability from performing basic and ancillary services that
11 the individual would perform if not disabled, chooses to direct and
12 supervise a paid personal services attendant to perform those
13 services in order for the individual to live in the individual's home
14 and community rather than an institution.

15 **Sec. 10. (a)** An individual may not provide attendant care
16 services for compensation from Medicaid or the community and
17 home options to institutional care for the elderly and disabled
18 program for an individual in need of self-directed in-home care
19 services unless the individual is registered under section 12 of this
20 chapter.

21 **(b)** An individual who is a legally responsible relative of an
22 individual in need of self-directed in-home care, including a parent
23 of a minor individual and a spouse, is precluded from providing
24 attendant care services for compensation under this chapter.

25 **Sec. 11.** An individual who desires to provide attendant care
26 services must register with the division or with an organization
27 designated by the division.

28 **Sec. 12. (a)** The division shall register an individual who
29 provides the following:

30 (1) A personal resume containing information concerning the
31 individual's qualifications, work experience, and any
32 credentials the individual may hold. The individual must
33 certify that the information contained in the resume is true
34 and accurate.

35 (2) The individual's limited criminal history check from the
36 Indiana central repository for criminal history information
37 under IC 10-13-3 or another source allowed by law.

38 (3) If applicable, the individual's state nurse aide registry

1 report from the state department of health. This subdivision
2 does not require an individual to be a nurse aide.

3 (4) Three (3) letters of reference.

4 (5) A registration fee. The division shall establish the amount
5 of the registration fee.

6 (6) Proof that the individual is at least eighteen (18) years of
7 age.

8 (7) Any other information required by the division.

9 (b) A registration is valid for two (2) years. A personal services
10 attendant may renew the personal services attendant's registration
11 by updating any information in the file that has changed and by
12 paying the fee required under subsection (a)(5). The limited
13 criminal history check and report required under subsection (a)(2)
14 and (a)(3) must be updated every two (2) years.

15 (c) The division and any organization designated under section
16 11 of this chapter shall maintain a file for each personal services
17 attendant that contains:

18 (1) comments related to the provision of attendant care
19 services submitted by an individual in need of self-directed
20 in-home care who has employed the personal services
21 attendant; and

22 (2) the items described in subsection (a)(1) through (a)(4).

23 (d) Upon request, the division shall provide to an individual in
24 need of self-directed in-home care the following:

25 (1) Without charge, a list of personal services attendants who
26 are registered with the division and available within the
27 requested geographic area.

28 (2) A copy of the information of a specified personal services
29 attendant who is on file with the division under subsection (c).
30 The division may charge a fee for shipping, handling, and
31 copying expenses.

32 Sec. 13. The case manager of an individual in need of
33 self-directed in-home care shall maintain an attending physician's
34 written opinion submitted under section 5 of this chapter in a case
35 file that is maintained for the individual by the case manager.

36 Sec. 14. (a) A personal services attendant who is hired by the
37 individual in need of self-directed in-home care is an employee of
38 the individual in need of self-directed in-home care.

1 (b) The division is not liable for any actions of a personal
2 services attendant or an individual in need of self-directed in-home
3 care.

4 (c) A personal services attendant and an individual in need of
5 self-directed in-home care are each liable for any negligent or
6 wrongful act or omission in which the person personally
7 participates.

8 Sec. 15. (a) Except as provided in subsection (b), an individual
9 in need of self-directed in-home care is responsible for recruiting,
10 hiring, training, paying, certifying any employment related
11 documents, dismissing, and supervising in the individual's home
12 during service hours a personal services attendant who provides
13 attendant care services for the individual.

14 (b) If an individual in need of self-directed in-home care is:

15 (1) less than twenty-one (21) years of age; or

16 (2) unable to direct in-home care because of a brain injury or
17 mental deficiency;

18 the individual's parent, spouse, legal guardian, or a person
19 possessing a valid power of attorney may make employment, care,
20 and training decisions and certify any employment related
21 documents on behalf of the individual.

22 (c) An individual in need of self-directed in-home care or an
23 individual under subsection (b) and the individual's case manager
24 shall develop an authorized care plan. The authorized care plan
25 must include a list of weekly services or tasks that must be
26 performed to comply with the authorized care plan.

27 Sec. 16. The division shall adopt rules under IC 4-22-2
28 concerning:

29 (1) the method of payment to a personal services attendant
30 who provides authorized services under this chapter; and

31 (2) record keeping requirements for personal attendant
32 services.

33 Sec. 17. The individual in need of self-directed in-home care and
34 the personal services attendant must each sign a contract, in a form
35 approved by the division, that includes, at a minimum, the
36 following provisions:

37 (1) The responsibilities of the personal services attendant.

38 (2) The frequency the personal services attendant will provide

1 attendant care services.

2 (3) The duration of the contract.

3 (4) The hourly wage of the personal services attendant. The
4 wage may not be less than the federal minimum wage or more
5 than the rate that the recipient is eligible to receive under a
6 Medicaid home and community based services waiver or the
7 community and home options to institutional care for the
8 elderly and disabled program for attendant care services.

9 (5) Reasons and notice agreements for early termination of the
10 contract.

11 Sec. 18. (a) The office shall amend the home and community
12 based services waiver program under the state Medicaid plan to
13 provide for the payment for attendant care services provided by a
14 personal services attendant for an individual in need of
15 self-directed in-home care under this chapter, including any related
16 record keeping and employment expenses.

17 (b) The office shall not, to the extent permitted by federal law,
18 consider as income money paid under this chapter to or on behalf
19 of an individual in need of self-directed in-home care to enable the
20 individual to employ registered personal services attendants, for
21 purposes of determining the individual's income eligibility for
22 services under this chapter.

23 Sec. 19. The division may:

24 (1) initiate demonstration projects to test new ways of
25 providing attendant care services; and

26 (2) research ways to best provide attendant care services in
27 urban and rural areas.

28 Sec. 20. (a) The division and office may adopt rules under
29 IC 4-22-2 that are necessary to implement this chapter.

30 (b) The office shall apply for any federal waivers necessary to
31 implement this chapter.

32 Sec. 21. The division shall adopt rules under IC 4-22-2
33 concerning the following:

34 (1) The receipt, review, and investigation of complaints
35 concerning the:

36 (A) neglect;

37 (B) abuse;

38 (C) mistreatment; or

**(D) misappropriation of property;
of an individual in need of self-directed in-home care by a
personal services attendant.**

**(2) Establishing notice and administrative hearing procedures
in accordance with IC 4-21.5.**

**(3) Appeal procedures, including judicial review of
administrative hearings.**

**(4) Procedures to place a personal services attendant who has
been determined to have been guilty of:**

(A) neglect;

(B) abuse;

(C) mistreatment; or

**(D) misappropriation of property;
of an individual in need of self-directed in-home care on the
state nurse aide registry."**

Page 35, strike line 31.

Page 35, line 32, strike "(3)" and insert "(2)".

Page 35, between lines 32 and 33, begin a new paragraph and insert:
"SECTION 58. IC 12-24-1-3 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) The director of
the division of mental health and addiction has administrative control
of and responsibility for the following state institutions:

~~(1) Central State Hospital.~~

~~(2)~~ **(1)** Evansville State Hospital.

~~(3)~~ **(2)** Evansville State Psychiatric Treatment Center for Children.

~~(4)~~ **(3)** Larue D. Carter Memorial Hospital.

~~(5)~~ **(4)** Logansport State Hospital.

~~(6)~~ **(5)** Madison State Hospital.

~~(7)~~ **(6)** Richmond State Hospital.

~~(8)~~ **(7)** Any other state owned or operated mental health
institution.

(b) Subject to the approval of the director of the budget agency and
the governor, the director of the division of mental health and addiction
may contract for the management and clinical operation of Larue D.
Carter Memorial Hospital.

(c) The following applies only to the institutions described in
subsection ~~(a)(2)~~ **(a)(1)** and ~~(a)(3)~~ **(a)(2)**:

(1) Notwithstanding any other statute or policy, the division of

1 mental health and addiction may not do the following after
 2 December 31, 2001, unless specifically authorized by a statute
 3 enacted by the general assembly:

4 (A) Terminate, in whole or in part, normal patient care or other
 5 operations at the facility.

6 (B) Reduce the staffing levels and classifications below those
 7 in effect at the facility on January 1, 2002.

8 (C) Terminate the employment of an employee of the facility
 9 except in accordance with IC 4-15-2.

10 (2) The division of mental health and addiction shall fill a vacancy
 11 created by a termination described in subdivision (1)(C) so that
 12 the staffing levels at the facility are not reduced below the staffing
 13 levels in effect on January 1, 2002.

14 (3) Notwithstanding any other statute or policy, the division of
 15 mental health and addiction may not remove, transfer, or
 16 discharge any patient at the facility unless the removal, transfer,
 17 or discharge is in the patient's best interest and is approved by:

18 (A) the patient or the patient's parent or guardian;

19 (B) the individual's gatekeeper; and

20 (C) the patient's attending physician.

21 (d) The Evansville State Psychiatric Treatment Center for Children
 22 shall remain independent of Evansville State Hospital and the
 23 southwestern Indiana community mental health center, and the
 24 Evansville State Psychiatric Treatment Center for Children shall
 25 continue to function autonomously unless a change in administration is
 26 specifically authorized by an enactment of the general assembly."

27 Page 37, delete lines 34 through 42.

28 Delete pages 38 through 39.

29 Page 40, delete lines 1 through 3.

30 Page 48, between lines 40 and 41, begin a new paragraph and insert:

31 "SECTION 77. IC 16-27-1-5, AS AMENDED BY P.L.212-2005,
 32 SECTION 10, IS AMENDED TO READ AS FOLLOWS
 33 [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) As used in this chapter,
 34 "home health services" means services that:

35 (1) are provided to a patient by:

36 (A) a home health agency; or

37 (B) another person under an arrangement with a home health
 38 agency;

1 in the temporary or permanent residence of the patient; and

2 (2) either, are required by law to be:

3 (A) ordered by a licensed physician, a licensed dentist, a
4 licensed chiropractor, a licensed podiatrist, or a licensed
5 optometrist for the service to be performed; or

6 (B) performed only by a health care professional.

7 (b) The term includes the following:

8 (1) Nursing treatment and procedures.

9 (2) Physical therapy.

10 (3) Occupational therapy.

11 (4) Speech therapy.

12 (5) Medical social services.

13 (6) Home health aide services.

14 (7) Other therapeutic services.

15 (c) The term does not apply to the following:

16 (1) Services provided by a physician licensed under IC 25-22.5.

17 (2) Incidental services provided by a licensed health facility to
18 patients of the licensed health facility.

19 (3) Services provided by employers or membership organizations
20 using health care professionals for their employees, members, and
21 families of the employees or members if the health or home care
22 services are not the predominant purpose of the employer or a
23 membership organization's business.

24 (4) Nonmedical nursing care given in accordance with the tenets
25 and practice of a recognized church or religious denomination to
26 a patient who depends upon healing by prayer and spiritual means
27 alone in accordance with the tenets and practices of the patient's
28 church or religious denomination.

29 (5) Services that are allowed to be performed by an attendant
30 under IC 16-27-1-10.

31 (6) Authorized services provided by a personal services attendant
32 under ~~IC 12-10-17~~. **IC 12-10-17.1.**

33 SECTION 78. IC 16-27-4-4, AS ADDED BY P.L.212-2005,
34 SECTION 18, IS AMENDED TO READ AS FOLLOWS
35 [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) As used in this chapter,
36 "personal services" means:

37 (1) attendant care services;

38 (2) homemaker services that assist with or perform household

tasks, including housekeeping, shopping, laundry, meal planning and preparation, and cleaning; and

(3) companion services that provide fellowship, care, and protection for a client, including transportation, letter writing, mail reading, and escort services;

that are provided to a client at the client's residence.

(b) The term does not apply to the following:

(1) Incidental services provided by a licensed health facility to patients of the licensed health facility.

(2) Services provided by employers or membership organizations for their employees, members, and families of the employees or members if the services are not the predominant purpose of the employer or the membership organization's business.

(3) Services that are allowed to be performed by a personal services attendant under ~~IC 12-10-17~~: **IC 12-10-17.1**.

(4) Services that require the order of a health care professional for the services to be lawfully performed in Indiana.

(5) Assisted living Medicaid waiver services.

(6) Services that are performed by a facility described in IC 12-10-15."

Page 50, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 81. IC 16-28-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) As used in this chapter, "other unlicensed employee" means:

(1) an employee of a health facility;

(2) a hospital based health facility; or

(3) a personal services attendant (as defined by ~~IC 12-10-17-8~~); **in IC 12-10-17.1-8**);

who is not licensed (as defined in IC 25-1-9-3) by a board (as defined in IC 25-1-9-1).

(b) The term does not include an employee of an ambulatory outpatient surgical center, a home health agency, a hospice program, or a hospital that is not licensed (as defined in IC 25-1-9-3) by a board (as defined in IC 25-1-9-1)."

Page 63, between lines 30 and 31, begin a new paragraph and insert:

"SECTION 98. IC 22-1-5-2, AS ADDED BY P.L.212-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter,

"companion type services" refers to services described in
~~IC 12-10-17-2(2)~~. **IC 12-10-17.1-2(2)**."

Page 64, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 101. IC 25-22.5-1-2, AS AMENDED BY P.L.212-2005,
 SECTION 20, IS AMENDED TO READ AS FOLLOWS
 [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) This article, as it relates
 to the unlawful or unauthorized practice of medicine or osteopathic
 medicine, does not apply to any of the following:

(1) A student in training in a medical school approved by the
 board, or while performing duties as an intern or a resident in a
 hospital under the supervision of the hospital's staff or in a
 program approved by the medical school.

(2) A person who renders service in case of emergency where no
 fee or other consideration is contemplated, charged, or received.

(3) A paramedic (as defined in IC 16-18-2-266), an emergency
 medical technician-basic advanced (as defined in
 IC 16-18-2-112.5), an emergency medical technician-intermediate
 (as defined in IC 16-18-2-112.7), an emergency medical
 technician (as defined in IC 16-18-2-112), or a person with
 equivalent certification from another state who renders advanced
 life support (as defined in IC 16-18-2-7) or basic life support (as
 defined in IC 16-18-2-33.5):

(A) during a disaster emergency declared by the governor
 under IC 10-14-3-12 in response to an act that the governor in
 good faith believes to be an act of terrorism (as defined in
 IC 35-41-1-26.5); and

(B) in accordance with the rules adopted by the Indiana
 emergency medical services commission or the disaster
 emergency declaration of the governor.

(4) Commissioned medical officers or medical service officers of
 the armed forces of the United States, the United States Public
 Health Service, and medical officers of the United States
 Department of Veterans Affairs in the discharge of their official
 duties in Indiana.

(5) An individual who is not a licensee who resides in another
 state or country and is authorized to practice medicine or
 osteopathic medicine there, who is called in for consultation by an
 individual licensed to practice medicine or osteopathic medicine

- 1 in Indiana.
- 2 (6) A person administering a domestic or family remedy to a
- 3 member of the person's family.
- 4 (7) A member of a church practicing the religious tenets of the
- 5 church if the member does not make a medical diagnosis,
- 6 prescribe or administer drugs or medicines, perform surgical or
- 7 physical operations, or assume the title of or profess to be a
- 8 physician.
- 9 (8) A school corporation and a school employee who acts under
- 10 IC 34-30-14 (or IC 34-4-16.5-3.5 before its repeal).
- 11 (9) A chiropractor practicing the chiropractor's profession under
- 12 IC 25-10 or to an employee of a chiropractor acting under the
- 13 direction and supervision of the chiropractor under IC 25-10-1-13.
- 14 (10) A dental hygienist practicing the dental hygienist's profession
- 15 under IC 25-13.
- 16 (11) A dentist practicing the dentist's profession under IC 25-14.
- 17 (12) A hearing aid dealer practicing the hearing aid dealer's
- 18 profession under IC 25-20.
- 19 (13) A nurse practicing the nurse's profession under IC 25-23.
- 20 However, a registered nurse may administer anesthesia if the
- 21 registered nurse acts under the direction of and in the immediate
- 22 presence of a physician and holds a certificate of completion of a
- 23 course in anesthesia approved by the American Association of
- 24 Nurse Anesthetists or a course approved by the board.
- 25 (14) An optometrist practicing the optometrist's profession under
- 26 IC 25-24.
- 27 (15) A pharmacist practicing the pharmacist's profession under
- 28 IC 25-26.
- 29 (16) A physical therapist practicing the physical therapist's
- 30 profession under IC 25-27.
- 31 (17) A podiatrist practicing the podiatrist's profession under
- 32 IC 25-29.
- 33 (18) A psychologist practicing the psychologist's profession under
- 34 IC 25-33.
- 35 (19) A speech-language pathologist or audiologist practicing the
- 36 pathologist's or audiologist's profession under IC 25-35.6.
- 37 (20) An employee of a physician or group of physicians who
- 38 performs an act, a duty, or a function that is customarily within

the specific area of practice of the employing physician or group of physicians, if the act, duty, or function is performed under the direction and supervision of the employing physician or a physician of the employing group within whose area of practice the act, duty, or function falls. An employee may not make a diagnosis or prescribe a treatment and must report the results of an examination of a patient conducted by the employee to the employing physician or the physician of the employing group under whose supervision the employee is working. An employee may not administer medication without the specific order of the employing physician or a physician of the employing group. Unless an employee is licensed or registered to independently practice in a profession described in subdivisions (9) through (18), nothing in this subsection grants the employee independent practitioner status or the authority to perform patient services in an independent practice in a profession.

(21) A hospital licensed under IC 16-21 or IC 12-25.

(22) A health care organization whose members, shareholders, or partners are individuals, partnerships, corporations, facilities, or institutions licensed or legally authorized by this state to provide health care or professional services as:

(A) a physician;

(B) a psychiatric hospital;

(C) a hospital;

(D) a health maintenance organization or limited service health maintenance organization;

(E) a health facility;

(F) a dentist;

(G) a registered or licensed practical nurse;

(H) a midwife;

(I) an optometrist;

(J) a podiatrist;

(K) a chiropractor;

(L) a physical therapist; or

(M) a psychologist.

(23) A physician assistant practicing the physician assistant's profession under IC 25-27.5.

(24) A physician providing medical treatment under

1 IC 25-22.5-1-2.1.

2 (25) An attendant who provides attendant care services (as defined
3 in IC 16-18-2-28.5).

4 (26) A personal services attendant providing authorized attendant
5 care services under ~~IC 12-10-17~~ **IC 12-10-17.1**.

6 (b) A person described in subsection (a)(9) through (a)(18) is not
7 excluded from the application of this article if:

8 (1) the person performs an act that an Indiana statute does not
9 authorize the person to perform; and

10 (2) the act qualifies in whole or in part as the practice of medicine
11 or osteopathic medicine.

12 (c) An employment or other contractual relationship between an
13 entity described in subsection (a)(21) through (a)(22) and a licensed
14 physician does not constitute the unlawful practice of medicine under
15 this article if the entity does not direct or control independent medical
16 acts, decisions, or judgment of the licensed physician. However, if the
17 direction or control is done by the entity under IC 34-30-15 (or
18 IC 34-4-12.6 before its repeal), the entity is excluded from the
19 application of this article as it relates to the unlawful practice of
20 medicine or osteopathic medicine.

21 (d) This subsection does not apply to a prescription or drug order for
22 a legend drug that is filled or refilled in a pharmacy owned or operated
23 by a hospital licensed under IC 16-21. A physician licensed in Indiana
24 who permits or authorizes a person to fill or refill a prescription or drug
25 order for a legend drug except as authorized in IC 16-42-19-11 through
26 IC 16-42-19-19 is subject to disciplinary action under IC 25-1-9. A
27 person who violates this subsection commits the unlawful practice of
28 medicine under this chapter.

29 (e) A person described in subsection (a)(8) shall not be authorized
30 to dispense contraceptives or birth control devices.

31 SECTION 102. IC 25-23-1-27.1, AS AMENDED BY
32 P.L.212-2005, SECTION 21, IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27.1. (a) As used
34 in this section, "licensed health professional" means:

35 (1) a registered nurse;

36 (2) a licensed practical nurse;

37 (3) a physician with an unlimited license to practice medicine or
38 osteopathic medicine;

- 1 (4) a licensed dentist;
- 2 (5) a licensed chiropractor;
- 3 (6) a licensed optometrist;
- 4 (7) a licensed pharmacist;
- 5 (8) a licensed physical therapist;
- 6 (9) a licensed psychologist;
- 7 (10) a licensed podiatrist; or
- 8 (11) a licensed speech-language pathologist or audiologist.
- 9 (b) This chapter does not prohibit:
 - 10 (1) furnishing nursing assistance in an emergency;
 - 11 (2) the practice of nursing by any student enrolled in a board
 - 12 approved nursing education program where such practice is
 - 13 incidental to the student's program of study;
 - 14 (3) the practice of any nurse who is employed by the government
 - 15 of the United States or any of its bureaus, divisions, or agencies
 - 16 while in the discharge of the nurse's official duties;
 - 17 (4) the gratuitous care of sick, injured, or infirm individuals by
 - 18 friends or the family of that individual;
 - 19 (5) the care of the sick, injured, or infirm in the home for
 - 20 compensation if the person assists only:
 - 21 (A) with personal care;
 - 22 (B) in the administration of a domestic or family remedy; or
 - 23 (C) in the administration of a remedy that is ordered by a
 - 24 licensed health professional and that is within the scope of
 - 25 practice of the licensed health professional under Indiana law;
 - 26 (6) performance of tasks by persons who provide health care
 - 27 services which are delegated or ordered by licensed health
 - 28 professionals, if the delegated or ordered tasks do not exceed the
 - 29 scope of practice of the licensed health professionals under
 - 30 Indiana law;
 - 31 (7) a physician with an unlimited license to practice medicine or
 - 32 osteopathic medicine in Indiana, a licensed dentist, chiropractor,
 - 33 dental hygienist, optometrist, pharmacist, physical therapist,
 - 34 podiatrist, psychologist, speech-language pathologist, or
 - 35 audiologist from practicing the person's profession;
 - 36 (8) a school corporation or school employee from acting under
 - 37 IC 34-30-14;
 - 38 (9) a personal services attendant from providing authorized

- 1 attendant care services under ~~IC 12-10-17~~; **IC 12-10-17.1**; or
- 2 (10) an attendant who provides attendant care services (as defined
- 3 in IC 16-18-2-28.5).".
- 4 Page 65, line 17, strike "disability".
- 5 Page 65, line 17, delete "aging," and insert "aging".
- 6 Page 65, line 17, strike "and rehabilitative".
- 7 Page 65, line 18, strike "services".
- 8 Page 65, line 26, after "addiction" delete ",."
- 9 Page 65, line 26, reset in roman "or".
- 10 Page 65, line 26, after "services" delete ",."
- 11 Page 65, line 27, delete "or the division of aging".
- 12 Page 65, between lines 30 and 31, begin a new paragraph and insert:
- 13 "SECTION 106. IC 34-30-2-43.9 IS AMENDED TO READ AS
- 14 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 43.9.
- 15 ~~IC 12-10-17-13(b)~~ **IC 12-10-17.1-14(b)** (Concerning actions of a
- 16 personal services attendant).".
- 17 Page 67, after line 28, begin a new paragraph and insert:
- 18 "SECTION 109. [EFFECTIVE JULY 1, 2006] **(a) As used in this**
- 19 **SECTION, "program" refers to the self-directed in-home care**
- 20 **program under IC 12-10-17.1, as added by this act.**
- 21 **(b) The office of the secretary of family and social services**
- 22 **established by IC 12-8-1-1 shall submit a report in electronic**
- 23 **format under IC 5-14-6 to the legislative council before November**
- 24 **1, 2009 concerning the:**
- 25 **(1) implementation; and**
- 26 **(2) outcome;**
- 27 **of the program.**
- 28 **(c) This SECTION expires December 31, 2010.**

1 SECTION 110. THE FOLLOWING ARE REPEALED
2 [EFFECTIVE JULY 1, 2006]: IC 12-10-17; IC 12-24-1-10.
3 SECTION 111. **An emergency is declared for this act."**
4 Renumber all SECTIONS consecutively.
 (Reference is to SB 41 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

Miller

Chairperson